

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

---

FESTUS KANDJABANGA	:	
	:	
Plaintiff	:	CIVIL ACTION
	:	NO.
	:	
v.	:	
	:	
DREXEL UNIVERSITY	:	
	:	
	:	
Defendant.	:	

---

NOTICE OF REMOVAL OF CIVIL ACTION FROM STATE COURT

Defendant Drexel University, by and through its undersigned counsel, hereby removes this case pursuant to 28 U.S.C. § 1441, to this Court from the Philadelphia County Court of Common Pleas. In support, Drexel states the following:

1. On July 10, 2015, plaintiff Festus Kandjabanga, *pro se*, filed a complaint for breach of contract, together with a Petition to Proceed *in forma pauperis*, in the Philadelphia Court of Common Pleas ("Philadelphia CCP"), July Term 2015, No. 01125. Exhibit 1, the Philadelphia CCP docket; Exhibit 2, the Philadelphia CCP Complaint.

2. Drexel filed preliminary objections because the complaint was insufficient and objectionable on multiple grounds, and on September 22, 2015, the Court sustained Drexel's

-2-

preliminary objections. Exhibit 3, the Philadelphia CCP Order sustaining preliminary objections.

3. Plaintiff filed an amended complaint that was exactly the same as the original complaint, Exhibit 4, prompting Drexel to again preliminarily object. The Court sustained Drexel's second set of preliminary objections on December 7, 2015. Exhibit 5, the Philadelphia CCP Order sustaining preliminary objections.

4. On December 14, 2015, plaintiff filed a second amended complaint, Exhibit 6, and on February 25, 2016, the Philadelphia CCP denied Drexel's preliminary objections, allowing plaintiff's second amended complaint to proceed. Exhibit 7, the Philadelphia CCP Order overruling preliminary objections. Plaintiff's second amended complaint alleges a state law claim for breach of contract.

5. On January 26, 2016, plaintiff filed a 16 count, 459 paragraph complaint in federal Court against Drexel and seven individual defendants, including Drexel's President, John Fry, its General Counsel, Michael Exler, and other professors and administrators. The federal court complaint, No. 2:16-cv-00423, assigned to Judge Gene E.K. Pratter, has not yet been served on Drexel. Exhibit 8, federal court complaint.

6. Plaintiff's federal court complaint alleges multiple causes of action based on federal law, including claims

-3-

for race and national origin discrimination, disability discrimination, and retaliation. Id.

7. On February 24, 2016, in the Philadelphia CCP action, plaintiff filed a "miscellaneous motion" and accompanying memorandum of law requesting an injunction against Drexel. Plaintiff's motion and memorandum of law filed in the Philadelphia CCP are taken directly from his federal court complaint, and are essentially a shortened form of the federal court complaint (131 paragraphs rather than 459 paragraphs), restating a subset of the federal claims contained in the federal court complaint. Exhibit 9, copy of plaintiff's "miscellaneous motion" and memorandum of law filed in the Philadelphia CCP.

8. On March 1, 2016, plaintiff filed a "Praecipe to Attach Documents" to his "miscellaneous motion" in the Philadelphia CCP. Exhibit 10.

9. The "miscellaneous motion" and memorandum filed by plaintiff in the Philadelphia CCP on February 24, 2016, allege federal claims for race, color or national origin discrimination (Count 1); "conspiracy retaliation and obstruction of justice" for reporting discrimination based on race, color or national origin (Count 2); discrimination based on disability in the denial of financial aid (Count 3); "Grade Retaliation" for reporting discrimination based on race, color

-4-

or national origin (Count 4); retaliation for reporting discrimination based on race, color or national origin (Count 5); denial of renewal of disability accommodations (Count 6); "Continuous Denial of Accommodation" based on disability discrimination (Count 7); and violation of his "right to a grievance" (Count 8). Exhibit 9.

10. Plaintiff's February 24, 2016, motion for an injunction, filed in the Philadelphia CCP, relies almost entirely on the same federal claims that he raises in his federal court complaint, and represents the first instance in which plaintiff asserted federal claims in the state court.

11. This Court has original jurisdiction under 28 U.S.C. § 1331 over the claims for discrimination and retaliation raised by plaintiff in the Philadelphia CCP action because the claims arise under the laws of the United States.

12. Plaintiff's claim for breach of contract, set forth in his second amended complaint in the Philadelphia CCP, is within the supplemental jurisdiction of the federal court.

13. By reason of the foregoing, Drexel is entitled to have this case removed from the Philadelphia County Court of Common Pleas to the United States District Court for the Eastern District of Pennsylvania.

-5-

14. Judicial economy will be served by litigating all of plaintiff's claims against Drexel (and the individual defendants) in a single action.

15. In accordance with 28 U.S.C. § 1446(b), this Notice of Removal has been filed "within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is removable or has become removable."

16. This Court is the district embracing the place where the State Court Action is pending for purposes of 28 U.S.C. § 1441(a).

17. True and correct copies of this Notice of Removal are being promptly filed with the Philadelphia Court of Common Pleas, and served this date upon plaintiff.

18. In accordance with 28 U.S.C. § 1446(a), Drexel is attaching copies of all process, pleadings, and orders served upon Drexel in the Philadelphia CCP action.

WHEREFORE, the Drexel Defendants request that this case be removed to the United States District Court for the Eastern District of Pennsylvania, that this Court accept jurisdiction of this action and that this action be henceforth placed on the docket of the Court for all further proceedings.

-6-

Respectfully submitted,



/s/ Michael E. Sacks

NEIL J. HAMBURG

MICHAEL E. SACKS

ID. Nos. 32175 and 39774

HAMBURG & GOLDEN, P.C.

1601 Market Street, Suite 3310

Philadelphia, PA 19103-1443

(215) 255-8590

hamburgnj@hamburg-golden.com

sacksme@hamburg-golden.com

Attorneys for Drexel University

Dated: March 9, 2016

**CERTIFICATE OF SERVICE**

I, Michael E. Sacks, hereby certify that the foregoing Notice of Removal of this case to the United States District Court for the Eastern District of Pennsylvania has been filed and will be available for viewing and downloading from the Court's Electronic Case Filing System. I further certify that a copy is being served by regular mail on March 9, 2016, on the following:

Festus Kandjabanga,  
1700 Ben Franklin Parkway, Apt. 2315  
Philadelphia, PA 19103

*Plaintiff, pro se*



/s/ Michael E. Sacks

MICHAEL E. SACKS